

Department of Energy

§ 216.2

11912 of April 13, 1976, Defense Mobilization Order ("DMO") No. 13 dated September 22, 1976, 41 FR 43720, and Department of Commerce, Bureau of Domestic Commerce, Delegation No. 4, effective date December 1, 1976, 41 FR 52331. Delegation No. 4 was superseded by Defense Priorities and Allocations System Delegation No. 2, effective date August 29, 1984, 49 FR 30430. On October 1, 1977, pursuant to section 301(a) of the Department of Energy Organization Act (Pub. L. 95-91), all of the functions of DOE and all of the functions of the DOE Administrator were transferred to the Secretary of Energy.

(b) The purpose of these regulations is to establish the procedures and the criteria to be used by DOE in determining whether programs or projects maximize domestic energy supplies and finding whether or not supplies of material and equipment are critical and essential, as required by DPA section 101(c)(3). The critical and essential finding will be made only for supplies of materials and equipment related to those programs or projects determined by DOE to maximize domestic energy supplies. These regulations do not require or imply that the findings, on which the exercise of such authority is conditioned, will be made in any particular case.

(c) If DOE determines that a program or project maximizes domestic energy supplies and finds that supplies of materials and equipment are critical and essential to maintain or further the exploration, production, refining, transportation or conservation of energy supplies or for the construction and maintenance of energy facilities, such determination and finding will be communicated to the Department of Commerce. If not, the applicant will be so informed. If the determination and finding described above are made, the Department of Commerce, pursuant to DPA section 101(c), Executive Order 11912 and DMO No. 13, will find whether or not (1) the supplies of materials and equipment in question are scarce and (2) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot be reasonably accomplished without exer-

cising the authority specified in section 101(c). If these additional two findings are made, the Department of Commerce will notify DOE, and DOE will inform the applicant that it has been granted the right to use priority ratings under the Defense Priorities and Allocations System ("DPAS") regulation established by the Department of Commerce, 15 CFR 350.

[43 FR 6212, Feb. 14, 1978, as amended at 51 FR 8311, Mar. 11, 1986]

§ 216.2 Definitions.

As used in these regulations:

(a) *Secretary* means the Secretary of the Department of Energy.

(b) *Applicant* means a person requesting priorities or allocation assistance in connection with an energy program or project.

(c) *Application* means the written request of an applicant for assistance.

(d) *Assistance* means use of the authority vested in the President by DPA section 101(c) to implement priorities and allocation support.

(e) *DOC* means the Department of Commerce, acting through the Secretary or the delegate of the Secretary.

(f) *DOE* means the Department of Energy, acting through the Secretary or the delegate of the Secretary.

(g) *Eligible energy program or project* means a designated activity which maximizes domestic energy supplies by furthering the domestic exploration, production, refining, transportation or conservation of energy supplies or construction and maintenance of energy facilities within the meaning of DPA section 101(c), as determined by DOE.

(h) *FEMA* means the Federal Emergency Management Agency.

(i) *Materials and equipment* means any raw, in-process, or manufactured commodity, equipment, component, accessory, part, assembly or product of any kind.

(j) *Person* means an individual, corporation, partnership, association, or any other organized group of persons (or legal successor or representative thereof), and includes the United States or any other government and any political subdivisions (or any agency) thereof.

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